

103^D CONGRESS
1ST SESSION

H. R. 1924

To amend the Solid Waste Disposal Act to allow petitions to be submitted to prevent certain waste facilities from being constructed in environmentally disadvantaged communities.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1993

Mrs. COLLINS of Illinois introduced the following bill; which was referred to the Committee on Energy and Commerce

OCTOBER 13, 1993

Additional sponsors: Mr. LEWIS of Georgia, Mr. SERRANO, Mr. MFUME, Mr. MILLER of California, Mr. TOWNS, Mr. TORRES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. JEFFERSON, Mr. THOMPSON of Mississippi, Mr. FILNER, Ms. MCKINNEY, Mr. GENE GREEN of Texas, Mrs. CLAYTON, Ms. NORTON, Mr. CLAY, Mr. DELLUMS, Ms. WATERS, Mr. FISH, Ms. VELÁZQUEZ, Mr. RICHARDSON, Mr. PALLONE, Miss COLLINS of Michigan, Mr. RUSH, and Mr. DIXON

A BILL

To amend the Solid Waste Disposal Act to allow petitions to be submitted to prevent certain waste facilities from being constructed in environmentally disadvantaged communities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Environmental Equal
3 Rights Act of 1993”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) A 1987 study by the United Church of
7 Christ found that the proportion of minorities in
8 communities with large commercial landfills or a
9 high number of commercial waste facilities was 3
10 times greater than in communities without such
11 facilities.

12 (2) The same United Church of Christ study
13 found that approximately 60 percent of African- and
14 Hispanic-Americans live in a community that has an
15 uncontrolled hazardous waste site.

16 (3) An Environmental Protection Agency report
17 released in 1992 found that racial minority and low-
18 income populations experience higher than average
19 exposures to selected air pollutants and hazardous
20 waste facilities.

21 (4) A 1983 analysis by the General Accounting
22 Office found that, in the southeastern United States,
23 3 of the 4 commercial hazardous waste landfills were
24 located in communities with more blacks than
25 whites, and the percentage of residents near the

1 sites with incomes below the poverty line ranged
2 from 26 percent to 42 percent.

3 (5) A University of Michigan study released in
4 1990 found that minorities were 4 times more likely
5 than whites to live within 1 mile of a commercial
6 hazardous waste facility in the 3-county Detroit
7 metropolitan area.

8 (6) A National Law Journal study found that
9 penalties imposed for pollution law violations in
10 areas predominantly populated by minorities were
11 dramatically lower than those imposed for violations
12 in largely white areas.

13 **SEC. 3. PETITION RELATING TO ENVIRONMENTALLY DIS-**
14 **ADVANTAGED COMMUNITIES.**

15 (a) AMENDMENT TO SUBTITLE G.—Subtitle G of the
16 Solid Waste Disposal Act (42 U.S.C. 6971 et seq.) is
17 amended by adding at the end the following new section:

18 **“SEC. 7014. PETITION RELATING TO ENVIRONMENTALLY**
19 **DISADVANTAGED COMMUNITIES.**

20 “(a) RIGHT TO PETITION.—(1) Any citizen residing
21 in a State in which a new facility for the management
22 of solid waste (including a new facility for the manage-
23 ment of hazardous waste) is proposed to be constructed
24 in an environmentally disadvantaged community may sub-
25 mit a petition to the appropriate entity (described in para-

1 graph (2)) to prevent the proposed facility from being is-
2 sued a permit to be constructed or to operate in that com-
3 munity.

4 “(2) A petition under paragraph (1) shall be submit-
5 ted in accordance with the following subparagraphs:

6 “(A) In the case of a facility for the manage-
7 ment of hazardous waste, the petition shall be sub-
8 mitted to the Administrator or, in the case of a
9 State with an authorized program under section
10 3006, to the State.

11 “(B) In the case of a facility for the manage-
12 ment of municipal solid waste, the petition shall be
13 submitted to the Administrator or, in appropriate
14 cases, as determined under regulations implementing
15 this section, to the State.

16 “(b) AGENCY HEARING.—(1) Within a reasonable pe-
17 riod of time after receipt of a petition under subsection
18 (a), the Administrator or the State shall hold a public
19 hearing on the petition. An administrative law judge of
20 the Environmental Protection Agency or an equivalent em-
21 ployee of the State, in the case of a petition submitted
22 to the State, shall preside at the hearing.

23 “(2) Subject to paragraph (3), the administrative law
24 judge or State employee shall approve the petition if, at
25 the hearing, the petitioner establishes that—

1 “(A) the proposed facility will be located in an
2 environmentally disadvantaged community; and

3 “(B) the proposed facility may adversely af-
4 fect—

5 “(i) the human health of such community
6 or a portion of such community; or

7 “(ii) the air, soil, water, or other elements
8 of the environment of such community or a por-
9 tion of such community.

10 “(3) After the petitioner has satisfied the require-
11 ment of paragraph (2), the administrative law judge or
12 State employee shall deny the petition only if, at the
13 hearing, the proponent of the proposed facility establishes
14 that —

15 “(A) there is no alternative location within the
16 State for the proposed facility that poses fewer risks
17 to human health and the environment than the pro-
18 posed facility (according to standards for comparing
19 the degree of risk to human health and the environ-
20 ment promulgated in regulations by the Adminis-
21 trator for purposes of this section); and

22 “(B) the proposed facility—

23 “(i) will not release contaminants; or

24 “(ii) will not engage in any activity that is
25 likely to increase the cumulative impact of con-

1 taminants on any residents of the environ-
2 mentally disadvantaged community.

3 “(c) ADMINISTRATIVE PROVISIONS.—(1) The sub-
4 mission of a petition under subsection (a) stays the issu-
5 ance of a permit for the facility concerned until a decision
6 on the petition has been rendered under subsection (b).

7 “(2) If more than one petition relating to the same
8 facility is submitted, the petitions may be consolidated by
9 the appropriate official to promote the efficient resolution
10 and disposition of the petitions.

11 “(d) DEFINITIONS.—For purposes of this section:

12 “(1) The term ‘environmentally disadvantaged
13 community’ means an area within 2 miles of the bor-
14 ders of a site on which a facility for the management
15 of solid waste (including a facility for the manage-
16 ment of hazardous waste) is proposed to be con-
17 structed and in which both of the following condi-
18 tions are met, determined using the most recent
19 data from the Bureau of the Census:

20 “(A)(i) The percentage of the population
21 consisting of all individuals who are of African,
22 Hispanic, Asian, Native American Indian, Pa-
23 cific Island, or Native Alaskan ancestry is
24 greater than either—

1 “(I) the percentage of the population
2 in the State of all such individuals, or

3 “(II) the percentage of the population
4 in the United States of all such individ-
5 uals; or

6 “(ii)(I) twenty percent or more of the pop-
7 ulation consists of individuals who are living at
8 or below the poverty line, or

9 “(II) the area has a per capita income of
10 80 percent or less of the national average,
11 for the most recent 12-month period for which
12 statistics are available.

13 “(B) The area contains one or more of the
14 following:

15 “(i) A facility for the management of
16 hazardous waste that is in operation.

17 “(ii) A facility for the management of
18 hazardous waste that is no longer in oper-
19 ation but that formerly accepted hazardous
20 waste.

21 “(iii) A site at which a release or
22 threatened release of hazardous substances
23 (within the meaning of the Comprehensive
24 Environmental Response, Compensation,
25 and Liability Act of 1980) has occurred.

1 “(iv) A facility for the management of
2 municipal solid waste.

3 “(v) A facility whose owner or opera-
4 tor is required to submit a toxic chemical
5 release form under section 313 of the
6 Emergency Planning and Community
7 Right-To-Know Act of 1986 (42 U.S.C.
8 11023), if the releases reported on such
9 form are likely to adversely affect the
10 human health of the community or portion
11 of the community, as determined by the
12 entity that would be appropriate under
13 subsection (a)(2) if a petition were filed
14 with respect to the facility.

15 “(2) The term ‘management’, when used in
16 connection with solid waste (including hazardous
17 waste), means treatment, storage, disposal, combus-
18 tion, recycling, or other handling of solid waste, but
19 does not include any activities that take place in a
20 materials recovery facility or any other facility that
21 prepares, transfers, or utilizes nonhazardous recycla-
22 ble materials for purposes other than energy recov-
23 ery.

1 “(3) The terms ‘release’ and ‘contaminant’ have
2 the meanings prescribed by the Administrator for
3 purposes of this section.”.

4 (b) TABLE OF CONTENTS AMENDMENT.—The table
5 of contents for subtitle G of such Act is further amended
6 by adding at the end the following new item:

“Sec. 7014. Petition relating to environmentally disadvantaged communities.”.

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